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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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MICHAEL JOHN BIXBY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM DECISION AND  
ORDER DENYING [132] MOTION FOR  
COMPASSIONATE RELEASE**

Case No. 2:22-cr-00025-DBB

District Judge David Barlow

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Before the court is Petitioner Michael John Bixby's pro se motion for compassionate release pursuant to the First Step Act, 18 U.S.C. § 3582(c)(1)(A). Having considered Petitioner's written memoranda<sup>1</sup> and relevant law, the court determines that Mr. Bixby has not exhausted his administrative remedies through the Bureau of Prisons (BOP). The Court, therefore, denies the motion.<sup>2</sup>

**BACKGROUND**

On January 27, 2023, Mr. Bixby pleaded guilty, pursuant to a Rule 11(c)(1)(C) plea agreement, to conspiracy to distribute methamphetamine.<sup>3</sup> In accordance with the agreement, on March 17, 2023, the court sentenced Mr. Bixby to forty-eight months' imprisonment.<sup>4</sup> On September 12, 2023, Mr. Bixby filed a motion for compassionate release, arguing that he should

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<sup>1</sup> Mot. for Compassionate Relief, ECF No. 132.

<sup>2</sup> The Court notes that prior counsel for Mr. Bixby was notified of the pro se motion pursuant to General Order 22-022. ECF No. 133. Counsel declined to appear or provide additional information to aid the Court's decision on Mr. Bixby's Motion for Sentence Reduction. ECF No. 135.

<sup>3</sup> Order of Reference and Consent to Entry of Plea, ECF No. 88.

<sup>4</sup> ECF No. 102.

be released to receive medical care to treat significant health issues.<sup>5</sup>

### STANDARD

Generally, “a court may not modify a term of imprisonment once it has been imposed.” 18 U.S.C. § 3582(c). However, 18 U.S.C. § 3582(c) grants the limited exception of compassionate release. Under this law, a defendant may request a modification of his sentence for “extraordinary and compelling reasons.” *Id.* A court may do so only if the defendant has first exhausted his administrative remedies through the Bureau of Prisons (“BOP”).<sup>6</sup> To exhaust administrative remedies, an inmate must first request that the BOP file a motion on his or her behalf.<sup>7</sup> If the BOP does not do so, an inmate must either (1) “fully exhaust[] all administrative rights to appeal a failure of the Board of Prisons to bring a motion,” or (2) “30 days have passed since the ‘warden of the [inmate]’s facility’ received a compassionate release request from the inmate.”<sup>8</sup> If a petitioner fails to meet this condition, the court may deny the motion without addressing the other required elements of a motion for compassionate relief.<sup>9</sup>

### DISCUSSION

Having reviewed Mr. Bixby’s written memoranda, the Court finds that Mr. Bixby has not requested that the BOP file a motion for compassionate relief on his behalf before filing motion with the Court.<sup>10</sup> The court thus holds that Mr. Bixby failed to comply with the First Step Act’s compassionate release requirements and the Motion is denied.<sup>11</sup>

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<sup>5</sup> Mot. for Compassionate Relief 3, ECF No. 132.

<sup>6</sup> § 3582(c)(1)(A).

<sup>7</sup> *Id.*

<sup>8</sup> *United States v. Springer*, 820 Fed. Appx. 788, 791 (10th Cir. 2020) (quoting 18 U.S.C. § 3582(c)(1)(A)).

<sup>9</sup> *United States v. McGee*, 992 F.3d 1035, 1043 (10th Cir. 2021) (quoting *United States v. Elias*, 984 F.3d 516, 519 (6th Cir. 2021)).

<sup>10</sup> See Mot. for Compassionate Relief, ECF No. 132.

<sup>11</sup> Mr. Bixby references two other issues in his motion. First, Mr. Bixby states that he is qualified for the RDAP program but has not had access to it. ECF No. 132, 2. Courts do not determine whether an inmate qualifies for

**ORDER**

Accordingly, Petitioner's Motion for Sentence Reduction<sup>12</sup> is DENIED.

Signed October 2, 2023.

BY THE COURT



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David Barlow  
United States District Judge

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RDAP or order that an inmate must have access to it. Second, Mr. Bixby has sent the court a medical bill and states "Please send me documentation that this has been taken care of." The court does not pay or oversee the handling of an inmate's medical bills. Mot. for Compassionate Release 6, ECF No. 132.

<sup>12</sup> ECF No. 132.